

Office of the Secretary, USDA

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Federal and State agencies on information matters.

(vi) Cooperate with and secure the cooperation of commercial, industrial and other nongovernmental agencies and concerns regarding information work as required in the execution of the Department's programs.

(vii) Plan and direct communication research and training for the Department and its agencies.

(viii) [Reserved]

(ix) Supervise and provide leadership and final clearance for the planning, production, and distribution of visual information material for the department and its agencies in Washington, D.C., and the field, and provide such information services as may be deemed necessary.

(x) Maintain overall responsibility and control over the preparation of the "Agricultural Decisions."

(xi) Administer, direct and coordinate publications and user fee authority granted under section 1121 of the Agriculture and Food Act of 1981, as amended by section 1769 of the Food Security Act of 1985, 7 U.S.C. 2242a; and publish any appropriate regulations necessary to the exercise of this authority.

(b) [Reserved]

[60 FR 56393, Nov. 8, 1995, as amended at 74 FR 19373, Apr. 29, 2009]

Subpart E [Reserved]

Subpart F—Delegations of Authority by the Under Secretary for Farm and Foreign Agricultural Services

EDITORIAL NOTE: Nomenclature changes to subpart F appear at 60 FR 66713, Dec. 26, 1995.

§ 2.40 Deputy Under Secretary for Farm and Foreign Agricultural Services.

Pursuant to § 2.16(a), subject to reservations in § 2.16(b), and subject to policy guidance and direction by the Under Secretary, the following delegation of authority is made to the Deputy Under Secretary for Farm and Foreign Agricultural Services, to be exercised only during the absence or unavailability of the Under Secretary:

Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Under Secretary for Farm and Foreign Agricultural Services: Provided, that this authority shall be exercised by the respective Deputy Under Secretary in the order in which he or she has taken office as a Deputy Under Secretary.

§ 2.42 Administrator, Farm Service Agency.

(a) *Delegations.* Pursuant to § 2.16(a)(1) through (a)(4) and (a)(6) through (a)(8), subject to the reservations in § 2.16(b)(1), the following delegations of authority are made by the Under Secretary for Farm and Foreign Agricultural Services to the Administrator, Farm Service Agency:

(1) Formulate policies and administer programs authorized by the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1282 *et seq.*).

(2) Formulate policies and administer programs authorized by the Agricultural Act of 1949, as amended (7 U.S.C. 1441 *et seq.*), except the provisions of section 416(a)(1), (a)(2) and (b) of the Agricultural Act of 1949, as amended, unless specifically provided herein.

(3) Coordinate and prevent duplication of aerial photographic work of the Department, including:

(i) Clearing photography projects;

(ii) Assigning symbols for new aerial photography, maintaining symbol records, and furnishing symbol books;

(iii) Recording departmental aerial photography flow and coordinating the issuance of aerial photography status maps of latest coverage;

(iv) Promoting interchange of technical information and techniques to develop lower costs and better quality;

(v) Representing the Department on committees, task forces, work groups, and other similar groups concerned with aerial photography acquisition and reproduction;

(vi) Providing a Chairperson for the Photography Sales Committee of the Department;

(vii) Coordinating development, preparation, and issuance of specifications for aerial photography for the Department;

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(viii) Coordinating and performing procurement, inspection, and application of specifications for USDA aerial photography;

(ix) Maintaining library and files of USDA aerial film and retrieving and supplying reproductions on request.

(4) Administer the Agricultural Conservation Program under title X of the Agricultural Act of 1970, as amended (16 U.S.C. 1501 *et seq.*), and under the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g *et seq.*).

(5) Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*), and title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*), relating to agricultural production; food processing, storage, and distribution of farm equipment and fertilizers, rehabilitation and use of feed, agricultural and related agribusiness facilities; and farm credit and financial assistance.

(6) Administer the Emergency Conservation Program under the Agricultural Credit Act of 1978, as amended (16 U.S.C. 2201 *et seq.*).

(7) Conduct fiscal, accounting and claims functions relating to CCC programs for which the Foreign Agricultural Service has been delegated authority under § 2.43 and, in conjunction with other agencies of the U.S. Government, develop and formulate agreements to reschedule amounts due from foreign countries.

(8) Conduct assigned activities under the Strategic and Critical Materials Stockpiling Act, as amended (50 U.S.C. 98 *et seq.*).

(9) Supervise and direct Farm Service Agency State and county offices and designate functions to be performed by Farm Service Agency State and county committees.

(10) Administer the Dairy Indemnity Program under the Act of August 13, 1968, as amended (7 U.S.C. 450j *et seq.*).

(11) Administer procurement, processing, handling, distribution, disposition, transportation, payment, and related services with respect to surplus removal and supply operations which are carried out under section 210 of the Agricultural Act of 1956 (7 U.S.C. 1859),

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the Act of August 19, 1958, as amended (7 U.S.C. 1431 note), and section 709 of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1446a-1), except as delegated to the Under Secretary for Food, Nutrition, and Consumer Services in § 2.19 and to the Under Secretary for Farm and Foreign Agricultural Services in § 2.16(a)(3), and assist the Food and Consumer Service and the Agricultural Marketing Service in the procurement, handling, payment, and related services under section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), the Act of June 28, 1937, as amended (7 U.S.C. 713c), the National School Lunch Act, as amended (42 U.S.C. 1751 *et seq.*), section 8 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1777), section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), and section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c note), and section 1114 of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e).

(12) Administer commodity procurement and supply, transportation (other than from point of export, except for movement to trust territories or possessions), handling, payment, and related services in connection with programs under titles II and III of Public Law 480 (7 U.S.C. 1691, 1701, *et seq.*) and section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o-1) (except for the authority under section 3107(d) to designate federal agencies that is reserved to the President), and payment and related services with respect to export programs and barter operations.

(13) [Reserved]

(14) Administer the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 *et seq.*) except those functions delegated in § 2.21(a)(8)(xi).

(15) Administer energy management activities as assigned.

(16) Conduct producer referenda of commodity promotion programs under the Beef Research and Information Act, as amended (7 U.S.C. 2901 *et seq.*) and the Agricultural Promotion Programs Act of 1990, as amended (7 U.S.C. 6001 *et seq.*).

(17) Conduct field operations of diversion programs for fresh fruits and vegetables under section 32 of the Act of August 29, 1935.

(18) Administer the U. S. Warehouse Act, as amended (7 U.S.C. 241-273), and perform compliance examinations for Farm Service Agency programs.

(19) [Reserved]

(20) Formulate and carry out the Conservation Reserve Program, including the implementation of technical assistance, under the Food Security Act of 1985, as amended (16 U.S.C. 1232 *et seq.*).

(21) Carry out functions relating to highly erodible land and wetland conservation under sections 1211-1213 and 1221-1223 of the Food Security Act of 1985, as amended (16 U.S.C. 3811-3813 and 3821-3823).

(22) With respect to land and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580, 3 CFR, 1987 Comp., p. 193, under the following provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("the Act"), as amended:

(i) Sections 104(a), (b), and (c)(4) of the Act (42 U.S.C. 9604(a), (b), and (c)(4)), with respect to removal and remedial actions in the event of release or threatened release of a hazardous substance, pollutant, or contaminant into the environment;

(ii) Sections 104(e)-(h) of the Act (42 U.S.C. 9604(e)-(h)), with respect to information gathering and access requests and orders; compliance with Federal health and safety standards and wage and labor standards applicable to covered work; and emergency procurement powers;

(iii) Section 104(i)(11) of the Act (42 U.S.C. 9604(i)(11)), with respect to the reduction of exposure to significant risk to human health;

(iv) Section 104(j) of the Act (42 U.S.C. 9604(j)), with respect to the acquisition of real property and interests in real property required to conduct a remedial action;

(v) The first two sentences of section 105(d) of the Act (42 U.S.C. 9605(d)), with respect to petition for preliminary assessment of a release or threatened release;

(vi) Section 105(f) of the Act (42 U.S.C. 9605(f)), with respect to consideration of the availability of qualified minority firms in awarding contracts, but excluding that portion of section 105(f) pertaining to the annual report to Congress;

(vii) Section 109 of the Act (42 U.S.C. 9609), with respect to the assessment of civil penalties for violations of section 122 of the Act (42 U.S.C. 9622), and the granting of awards to individuals providing information;

(viii) Section 111(f) of the Act (42 U.S.C. 9611(f)), with respect to the designation of officials who may obligate money in the Hazardous Substances Superfund;

(ix) Section 113(k) of the Act (42 U.S.C. 9613(k)), with respect to establishing an administrative record upon which to base the selection of a response action and identifying and notifying potentially responsible parties;

(x) Section 116(a) of the Act (42 U.S.C. 9616(a)), with respect to preliminary assessment and site inspection of facilities;

(xi) Sections 117(a) and (c) of the Act (42 U.S.C. 9617(a) and (c)), with respect to public participation in the preparation of any plan for remedial action and explanation of variances from the final remedial action plan for any remedial action or enforcement action, including any settlement or consent decree entered into;

(xii) Section 119 of the Act (42 U.S.C. 9619), with respect to indemnifying response action contractors;

(xiii) Section 121 of the Act (42 U.S.C. 9621), with respect to cleanup standards; and

(xiv) Section 122 of the Act (42 U.S.C. 9622), with respect to settlements, but excluding section 122(b)(1) of the Act (42 U.S.C. 9622(b)(1)), related to mixed funding agreements.

(23) With respect to facilities and activities under his or her authority, to exercise the authority of the Secretary of Agriculture pursuant to section 1-102 related to compliance with applicable pollution control standards and section 1-601 of Executive Order 12088, 3 CFR, 1978 Comp., p. 243, to enter into an inter-agency agreement with the

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United States Environmental Protection Agency, or an administrative consent order or a consent judgment in an appropriate State, interstate, or local agency, containing a plan and schedule to achieve and maintain compliance with applicable pollution control standards established pursuant to the following:

- (i) Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as further amended by the Hazardous and Solid Waste Amendments, and the Federal Facility Compliance Act (42 U.S.C. 6901 *et seq.*);
- (ii) Federal Water Pollution Prevention and Control Act, as amended (33 U.S.C. 1251 *et seq.*);
- (iii) Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*);
- (iv) Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*);
- (v) Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*);
- (vi) Toxic Substances Control Act, as amended (15 U.S.C. 2601 *et seq.*);
- (vii) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*); and
- (viii) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601 *et seq.*).

(24)–(26) [Reserved]

(27) Formulate and administer regulations regarding program ineligibility resulting from convictions under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance, as required under section 1764 of the Food Security Act of 1985 (21 U.S.C. 881a).

(28) Administer the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*) except for the authority contained in the following sections:

(i) [Reserved]

(ii) Section 306 (7 U.S.C. 1926), relating to all programs in that section;

(iii) Section 306A (7 U.S.C. 1926a) and Section 306B (7 U.S.C. 1926b), relating to the Emergency Community Water Assistance Grant Programs;

(iv) Section 306C (7 U.S.C. 1926c) to administer the water and waste facility loans and grants to alleviate health risks;

(v) Sections 309 (7 U.S.C. 1929) and 309A (7 U.S.C. 1929a), regarding assets and programs related to rural development;

(vi) Section 310A (7 U.S.C. 1931), relating to watershed and resource conservation and development loans;

(vii) Section 310B (7 U.S.C. 1932), regarding various Rural Development programs;

(viii) Section 312(b) (7 U.S.C. 1942(b)), relating to small business enterprises;

(ix) Section 342 (7 U.S.C. 1013a);

(x) Section 364 (7 U.S.C. 2006f), section 365 (7 U.S.C. 2008), section 366 (7 U.S.C. 2008a), section 367 (7 U.S.C. 2008b), and section 368 (7 U.S.C. 2008c), regarding assets and programs related to rural development; and

(xi) Administrative provisions of subtitle D of the Consolidated Farm and Rural Development Act related to Rural Utilities Service, Rural Business-Cooperative Service, and Rural Housing Service activities.

(xii) Section 375 (7 U.S.C. 2008j), relating to the National Sheep Industry Improvement Center.

(29) Collect, service, and liquidate loans made or insured by the Farm Service Agency, or its predecessor agencies.

(30) Administer the Rural Rehabilitation Corporation Trust Liquidation Act (40 U.S.C. 440 *et seq.*), and trust, liquidation, and other agreements entered into pursuant thereto.

(31) [Reserved]

(32) Administer Farmers Home Administration or any successor agency assets conveyed in trust under the Participation Sales Act of 1966 (12 U.S.C. 1717).

(33) Administer the emergency loan and guarantee programs under sections 232, 234, 237, and 253 of the Disaster Relief Act of 1970 (Pub. L. No. 91–606), the Disaster Relief Act of 1969 (Pub. L. No. 91–79), Pub. L. No. 92–385, approved August 16, 1972, and the Emergency Livestock Credit Act of 1974 (Pub. L. No. 93–357), as amended.

(34) Administer loans to homestead or desertland entrymen and purchasers of land in reclamation projects or to an entryman under the desertland law (7 U.S.C. 1006a and 1006b).

(35) Administer the Federal Claims Collection Act of 1966, as amended (31

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U.S.C. 3711 *et seq.*), and joint regulations issued pursuant thereto by the Attorney General and the Comptroller General (4 CFR chapter II), with respect to claims of the Farm Service Agency.

(36) Service, collect, settle, and liquidate:

(i) Deferred land purchase obligations of individuals under the Wheeler-Case Act of August 11, 1939, as amended (16 U.S.C. 590y), and under the item, "Water Conservation and Utilization projects" in the Department of the Interior Appropriation Act, 1940 (53 Stat. 719), as amended;

(ii) Puerto Rican Hurricane Relief loans under the Act of July 11, 1956 (70 Stat. 525); and

(iii) Loans made in conformance with section 4 of the Southeast Hurricane Disaster Relief Act of 1965 (79 Stat. 1301).

(37) Administer loans to Indian tribes, tribal corporations, and purchasers of highly fractionated land (25 U.S.C. 488-492).

(38) Administer the State Agricultural Loan Mediation Program under title 5 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 *et seq.*).

(39) Administer financial assistance programs relating to Economic Opportunity Loans to Cooperatives under part A of title III and part D of title I and the necessarily related functions in title VI of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2763-2768, 2841-2855, 2942, 2943(b), 2961), delegated by the Director of the Office of Economic Opportunity to the Secretary of Agriculture by documents dated October 23, 1964 (29 FR 14764), and June 17, 1968 (33 FR 9850), respectively.

(40) Exercise all authority and discretion vested in the Secretary by section 331(c) of the Consolidated Farm and Rural Development Act, as amended by section 2 of the Farmers Home Administration Improvement Act of 1994, Pub. L. No. 103-248 (7 U.S.C. 1981(c)), including the following:

(i) Determine, with the concurrence of the General Counsel, which actions are to be referred to the Department of Justice for the conduct of litigation, and refer such actions to the Department of Justice through the General Counsel;

(ii) Determine, with the concurrence of the General Counsel, which actions are to be referred to the General Counsel, for the conduct of litigation and refer such actions; and

(iii) Enter into contracts with private sector attorneys for the conduct of litigation, with the concurrence of the General Counsel, after determining that the attorneys will provide competent and cost effective representation for the Farm Service Agency.

(41) [Reserved]

(42) Administer the provisions concerning the end-use certificate system authorized pursuant to section 301(f) of the North American Free Trade Implementation Act (19 U.S.C. 3391(f)).

(43) Determine the type and quantity of commodities that are available for programming under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), and the Food for Progress Act of 1985 (7 U.S.C. 1736o), and arrange for the processing, packaging, transportation, handling and delivery to port of such commodities in connection therewith.

(44) [Reserved]

(45) Administer all programs of the Commodity Credit Corporation that provide assistance with respect to the production of agricultural commodities, including disaster assistance and the domestic marketing of such commodities, except as may otherwise be reserved by the Under Secretary for Farm and Foreign Agricultural Services, and similar programs (including commodity quality development programs) consigned by statute to the Secretary of Agriculture unless otherwise delegated.

(46) Administer the following provisions of the Farm Security and Rural Investment Act of 2002 with respect to functions otherwise delegated to the Administrator, Farm Service Agency:

(i) The equitable relief provisions of section 1613 (7 U.S.C. 7996).

(ii) The tracking of benefits under section 1614 (7 U.S.C. 7997).

(iii) The development of a plan and related report to coordinate land retirement and agricultural working land conservation programs under section 2005 (16 U.S.C. 3801 note).

(47) Administer programs for Apple Loans and Emergency Loans for Seed

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Producers under section 203(f) and 253, respectively, of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note, Pub. L. 106-224).

(48) Administer evaluations of direct and guaranteed loan programs under section 5301 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1992 note).

(49) Formulate and carry out the Grassroots Source Water Protection Program, authorized by the Food Security Act of 1985, as amended (16 U.S.C. 3839bb-2).

(50) Administer cooperative agreements under 7 U.S.C. 2204b(b)(4) with respect to conservation programs.

(51) Administer the feedstock flexibility program for bioenergy producers under section 9010 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8110) and the biomass crop assistance program under section 9011 of that Act (7 U.S.C. 8111).

(52) Administer those portions of the Grassland Reserve Program under sections 1238N-1238Q of the Food Security Act of 1985 (16 U.S.C. 3838n-3838q) that are or become the responsibility of the Under Secretary for Farm and Foreign Agricultural Services.

(53) Administer the provisions of section 1240R of the Food Security Act of 1985 (16 U.S.C. 3839bb-5) regarding voluntary public access and habitat incentives.

(54) Implement the authority in section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) to accept and use voluntary contributions of non-Federal funds in support of natural resources conservation programs under subtitle D of title XII of that Act with respect to authorities delegated to the Administrator, Farm Service Agency.

(55) In coordination with the Director, Office of Advocacy and Outreach, issue receipts under section 2501A(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279-1(e)).

(56) Administer the following provisions of the Food, Conservation, and Energy Act of 2008, Public Law 110-246:

(i) Section 1605 relating to quality incentive payments for covered oilseed producers.

(ii) Section 1609 relating to the tracking of benefits.

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(iii) Section 1612 relating to the hard white wheat development program.

(iv) Section 1613 relating to the durum wheat quality program.

(v) Section 1621 relating to direct reimbursement payments to geographically disadvantaged farmers or ranchers.

(vi) Section 10404 relating to market loss assistance for asparagus producers.

(vii) Sections 12033 and 15101 relating to supplemental agricultural disaster assistance.

(viii) Section 14212 relating to the closure or relocation of county or field offices of the Farm Service Agency.

(ix) Section 15353(a) relating to information reporting for Commodity Credit Corporation transactions.

(57) Implement the information disclosure authorities of section 1619(b)(3)(A) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8791(b)(3)(A)).

(b) *Reservations.* The following authorities are reserved to the Under Secretary for Farm and Foreign Agricultural Services:

(1) Designating counties and areas for emergency programs under Pub. L. No. 85-58, as amended.

(2) Making and issuing notes to the Secretary of the Treasury for the purposes of the Agricultural Credit Insurance Fund as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1929).

[60 FR 56393, Nov. 8, 1995, as amended at 61 FR 25776, May 23, 1996; 61 FR 37552, July 18, 1996; 62 FR 1031, Jan. 8, 1997; 62 FR 19901, Apr. 24, 1997; 68 FR 27443, May 20, 2003; 69 FR 34254, June 21, 2004; 71 FR 35491, June 21, 2006; 71 FR 51421, Aug. 30, 2006; 74 FR 3406, Jan. 21, 2009; 75 FR 43380, July 23, 2010]

§ 2.43 Administrator, Foreign Agricultural Service.

(a) *Delegations.* Pursuant to § 2.16 (a)(3) and (a)(6), subject to reservations in § 2.16(b)(2), the following delegations of authority are made by the Under Secretary for Farm and Foreign Agricultural Services to the Administrator, Foreign Agricultural Service:

(1) Coordinate the carrying out by Department agencies of their functions involving foreign agriculture policies and programs and their operations and